



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/150982

PRELIMINARY RECITALS

Pursuant to a petition filed July 30, 2013, under Wis. Stat. § 49.45(5)(a), to review a decision by the Racine County Department of Human Services in regard to Medical Assistance, a hearing was held on August 27, 2013, at Racine, Wisconsin.

The issue for determination is whether the BadgerCare+ eligibility of Petitioner was correctly discontinued for failing to verify.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street
Madison, Wisconsin 53703

By: Kathy Christman

Racine County Department of Human Services
1717 Taylor Ave
Racine, WI 53403-2497

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Racine County.

2. Petitioner was sent a Notice of Decision dated June 24, 2013 that informed Petitioner that the BadgerCare+ eligibility for herself and her children was ending effective August 1, 2013 for failing to verify information.
3. Petitioner was sent a notice dated May 7, 2013 that informed her that she had a BadgerCare+ premium due in the amount of \$163.00 effective June 1, 2013. That triggered a series of exchanges between Petitioner and the agency with the agency seeking verification of income and Petitioner contending that income the agency believed Petitioner had was not correct.
4. Petitioner's household size is three.
5. The agency determined that Petitioner had unearned income in the amount of \$2256.00 from Social Security Survivor benefits (\$1128 for herself and one child); unemployment compensation in varying amounts though at the time of the case June 24, 2013 notice it was \$258.00 per week. Petitioner had employment as a realtor at ShoreWest and at a salon – Laguna. ShoreWest reported that Petitioner had income in the amount of \$1812.40 for 2013 and tax records show 2012 income from ShoreWest in the amount of \$5748.00. Petitioner told the agency that Laguna was an unpaid internship but it shows up as an employer in Unemployment Compensation records.
6. On June 12, 2013 the agency sent Petitioner a request for verification concerning Laguna. It indicated that a response was due as of June 21, 2013.
7. The agency did not receive a response from Petitioner regarding Laguna, hence the June 24, 2013 notice indicating a case closure.
8. Subsequently Petitioner did not pay the premium for her children; \$20.00, for July 2013 and the case also closed August 1, 2013 because of that.

DISCUSSION

It is mandatory that income be verified as part of the BadgerCare+ eligibility determination. *BadgerCare+ Eligibility Handbook (BEH)*, §9.9. That includes at review (*BEH*, §9.1.1) and required change reporting (*BEH*, §§9.9 and 27.3).

A BadgerCare+ recipient is required to report income changes as follows:

27.3 Income Change Reporting Requirements

BadgerCare Plus members must report income changes when their total monthly gross income exceeds the following percentages of the Federal Poverty Level (FPL) for their group size.

- 100% FPL
- 133% FPL
- 150% FPL
- 185% FPL
- 200% FPL
- 250% FPL
- 300% FPL
- 350% FPL
- 400% FPL

The income change must be reported by the 10th of the month following the month in which the total income exceeded its previous threshold.

...

BEH, §27.3.

The income limit for adult BadgerCare+ eligibility is 200% of the Federal Poverty Level (FPL) which is \$3255.00 for a group of 3. *See BEH, §§16.1 and 50.1, respectively.* The earned income of all eligible individuals in the household over age 18 is counted as are Social Security benefits. *BEH, §§16.4 and 16.5.* Children under age 19 are typically BadgerCare+ eligible but where income is over 200% of the FPL, a premium is due for the children in the group. *BEH, §19.1.*

The income information for Petitioner as to Social Security benefits and UC benefits is clear. The information as to employment - anything but clear. Petitioner indicated Laguna was an unpaid internship but it shows up in UC records as an employer. The agency was certainly justified in seeking additional information. When that was not received the agency correctly closed the case. I also note that Petitioner submitted self-employment report forms for 2013 that show a loss because of expenses considerably in excess of the expense reported on the 2012 tax returns - also a cause for concern which should have generated additional agency questions.

Finally, failure to pay premiums also causes case closure (*BEH, §19.1*). I note, however, that there was no separate Notice of Decision here as the case was already closed for failing to verify.

CONCLUSIONS OF LAW

That the agency correctly closed Petitioner's BadgerCare+ case for failing to verify.

THEREFORE, it is

ORDERED

That this appeal is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

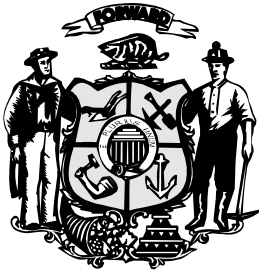
For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson

Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 21st day of October, 2013

\sDavid D. Fleming
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on October 21, 2013.

Racine County Department of Human Services
Division of Health Care Access and Accountability